

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

FREDRICK O. BLACK,)	
)	
<i>Petitioner,</i>)	
)	
v.)	Nos.: 3:94-cr-117
)	3:14-cv-395
UNITED STATES OF AMERICA,)	
)	
<i>Respondent.</i>)	

MEMORANDUM

Petitioner has filed a petition for writ of error coram nobis. For the following reasons, the petition will be **DENIED** and this action will be **DISMISSED**.

Petitioner was convicted of distribution of cocaine base. The Sixth Circuit affirmed the conviction, finding no prejudicial error in the judgment and proceedings. *United States v. Black*, No. 95-6208, (6th Cir. Nov. 13, 1996) (mandate issued) [Criminal File No. 3:94-cv-117, Court File No. 77].

Petitioner then filed a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255, attacking the same conviction, which was denied on the merits. *Fredrick O. Black v. United States*, Civil Action No. 3:96-cv-1005 (E.D. Tenn. July 27, 1999) (order denying § 2255 motion), *application for certificate of appealability denied*, No. 99-6161 (6th Cir. March 29, 2000).

Petitioner next filed a second § 2255 motion, which was transferred to the United States Court of Appeals for the Sixth Circuit because the district court had not received an order from the Sixth Circuit authorizing consideration of a second or successive §

2255 motion; the Sixth Circuit denied permission to consider a second or successive § 2255 motion. *Fredrick O. Black v. United States*, Civil Action No. 3:08-cv-159 (E.D. Tenn. April 30, 2008) (transfer order), *motion denied*, No. 08-5560 (6th Cir. Jan. 16, 2009).

Petitioner then filed a petition for writ of error coram nobis, which was denied; the Court found that petitioner's claims should be more properly raised in a § 2255 motion and that he could not circumvent the restriction on second or successive § 2255 motions by calling his petition one for a writ of error coram nobis. *Fredrick O. Black v. United States*, Civil Action No. 3:11-cv-328 (E.D. Tenn. Nov. 30, 2011) (order of dismissal). Petitioner has now filed a second petition for writ of error coram nobis, which should be denied for the same reasons his first petition was denied.

The petition for writ of error coram nobis will be **DENIED** and this action **DISMISSED**. All other pending motions will be **DENIED** as **MOOT**. The Court **CERTIFIES** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this Court will **DENY** petitioner leave to proceed in forma pauperis on appeal. See Rule 24 of the Federal Rules of Appellate Procedure. Petitioner having failed to make a substantial showing of the denial of a constitutional right, a certificate of appealability **SHALL NOT ISSUE**. 28 U.S.C. § 2253.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas A. Varlan
CHIEF UNITED STATES DISTRICT JUDGE